

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

KEVIN CLARKE, TREVOR  
BOECKMANN, HARRY CRANE, CORWIN  
SMIDT, PREDICT IT, INC., ARISTOTLE  
INTERNATIONAL, INC., MICHAEL  
BEELER, MARK BORGHI, RICHARD  
HANANIA, JAMES MILLER, JOSIAH  
NEELEY, GRANT SCHNEIDER, and WES  
SHEPHERD,

*Plaintiffs,*

v.

COMMODITY FUTURES TRADING  
COMMISSION,

*Defendant.*

Civil Docket No. 1:22-cv-00909-DAE

The Honorable David Alan Ezra

**PARTIES' SECOND JOINT SCHEDULING RECOMMENDATIONS  
PURSUANT TO ORDER DATED DECEMBER 4, 2023**

On September 13, 2023, the Court, Ezra, J., previously ordered the parties to file a proposed scheduling order. Dkt. 43. The parties filed joint scheduling recommendations on October 4, 2023. Dkt. 47. Although the Court has not, to date, ruled on that proposed schedule, the parties have been following it, with one exception described below. Indeed, consistent with the proposed schedule, the Court granted the Defendant's motion to extend the time to respond to the Plaintiffs' Second Amended Complaint until 60 days after the filing of the Second Amended Complaint. November 30, 2023, Text Order Granting Dkt. 56. Thus, in response to the December 4, 2023, Order, the parties state as follows:

1. The parties do not consent to Magistrate Judge jurisdiction.

2. Defendant Commodity Futures Trading Commission (“CFTC”) filed a motion to transfer venue, Dkt. 50, which was not included in the earlier joint scheduling recommendations.<sup>1</sup> Briefing was completed on November 11, 2023.

3. The parties restate their prior scheduling recommendations, limiting them to the deadlines that have not already passed.

### **SCHEDULING RECOMMENDATIONS**

1. Court ruling on pending motion to transfer. Date TBD.

2. Defendant’s Answer and/or dispositive or partially dispositive motions (other than motions for summary judgment). January 26, 2024 (subject to possible additional motion for extension of time).

3. Court ruling on dispositive or partially dispositive motions (other than motions for summary judgment), if any. Date TBD.

4. Plaintiffs’ motion for summary judgment. No later than 60 days after filing of Answer or Court ruling on dispositive or partially dispositive motions (other than motions for summary judgment) if any, whichever comes later.

5. Defendant’s response and cross-motion for summary judgment. No later than 45 days after Plaintiffs’ motion for summary judgment.

6. Plaintiffs’ response in opposition to and reply in support of summary judgment. No later than 28 days after Defendant’s response and cross-motion.

7. Defendant’s reply in support of summary judgment. No later than 21 days after Plaintiff’s response and reply.

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<sup>1</sup> The CFTC originally filed a transfer motion on September 8, 2022. Dkt. 8. This motion was denied without prejudice subject to re-urging. Dkt. 38.

Respectfully submitted,

/s/ Martin B. White

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**CERTIFICATE OF SERVICE**

I certify that on January 3, 2024, I caused the foregoing document to be served on the Clerk of the Court using the Court's CM/ECF system, which will send notice to all counsel of record in this case.

/s/ Martin B. White